

State of South Dakota

EIGHTIETH SESSION LEGISLATIVE ASSEMBLY, 2005

609L0467

HOUSE BILL NO. 1108

Introduced by: Representative Garnos and Senator Napoli

1 FOR AN ACT ENTITLED, An Act to provide additional restrictions for local governments
2 opting out of the limitation on tax levy increases.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-12-43 be amended to read as follows:

5 10-12-43. The governing body of the school district may raise additional revenues for
6 general fund purposes only, from property tax through the imposition of an excess tax levy. The
7 governing body of a school district may impose the excess tax levy with an affirmative
8 two-thirds vote of the governing body on or before July fifteenth of the year prior to the year the
9 taxes are payable. On any excess tax levy approved after July 1, 2002, the governing body of
10 the taxing district shall specify in the resolution the year or number of years the excess tax levy
11 will be applied.

12 The requirements for an announcement made pursuant to this section are as follows:

- 13 (1) The decision of the governing body to originally impose or subsequently increase an
14 excess tax levy shall be first published within ten days of the decision;
- 15 (2) Publication shall be made at least twice in the legal newspaper designated pursuant
16 to § 13-8-10, with no fewer than five days between publication dates, before the opt



out takes effect;

(3) The announcement shall be at least three newspaper columns in width and four inches in length or at least one-sixth of a page in size, whichever size is greater;

(4) The announcement shall be headed with the following statement in a typeface no less than eighteen point type: "ATTENTION TAXPAYERS: NOTICE OF PROPERTY TAX INCREASE OF \$(fill in amount)." The remainder of the announcement shall consist of a reproduction of the "Resolution for Opt Out," including the amount that property taxes will be increased annually by the proposed opt out and a statement of the right to refer the decision of the board to a vote of the people as provided in this section. The secretary of revenue and regulation, in rules promulgated pursuant to chapter 1-26, shall prescribe a uniform form to be used by the school district for notification of taxpayers as required by this section.

However, the requirements of subdivisions (3) and (4) shall be waived if:

(A) The opt out is for less than fifteen thousand dollars; or

(B) A copy of the resolution for opt out is mailed to every property taxpayer in the local governmental unit, by first class mail or bulk mail, within twenty days of the decision to opt out; and

(C) A copy of the resolution for opt out is printed in each official newspaper in the local governmental unit's boundaries.

For the purposes of subsections (A), (B), and (C), the first publication is not deemed to have occurred until three days after the mailing is sent or the resolution is delivered to the official newspaper.

The opt out decision may be referred to a vote of the people upon a resolution of the governing body of the school district or by a petition signed by at least five percent of the

1 registered voters in the school district and filed with the governing body within twenty days of
2 the first publication of the decision. The referendum election shall be held on or before October
3 first of the year prior to the time the taxes are payable. If the decision of the governing body of
4 a school district to impose an excess tax levy is referred and the excess tax levy is not approved
5 by the voters, such governing body may not attempt to impose an excess tax levy for eighteen
6 months after the date of the referendum election.

7 Section 2. That § 10-13-36 be amended to read as follows:

8 10-13-36. The governing body of a taxing district may exceed the limit pursuant to § 10-13-
9 35 through the imposition of an excess tax levy. The governing body of a taxing district may
10 impose an excess tax levy with an affirmative two-thirds vote of the governing body on or
11 before July fifteenth of the year prior to the year the taxes are payable. On any excess tax levy
12 approved after July 1, 2002, the governing body of the taxing district shall specify in the
13 resolution the year or number of years the excess tax levy will be applied.

14 The requirements for an announcement made pursuant to this section are as follows:

- 15 (1) The decision of the governing body to originally impose or subsequently increase an
16 excess tax levy shall be published within ten days of the decision;
- 17 (2) Publication shall be made at least twice in the legal newspaper designated by the
18 governing body pursuant to law, with no fewer than five days between publication
19 dates, before the opt out takes effect;
- 20 (3) The announcement shall be at least three newspaper columns in width and four
21 inches in length or at least one-sixth of a page in size, whichever size is greater;
- 22 (4) The announcement shall be headed with the following statement in a typeface no less
23 than eighteen point type: "ATTENTION TAXPAYERS: NOTICE OF PROPERTY
24 TAX INCREASE OF \$(fill in amount)." The remainder of the announcement shall

1 consist of a reproduction of the "Resolution for Opt Out," including the amount that
2 property taxes will be increased annually by the proposed opt out and a statement of
3 the right to refer the decision of the board to a vote of the people as provided in this
4 section. The secretary of revenue and regulation, in rules promulgated pursuant to
5 chapter 1-26, shall prescribe a uniform form to be used by the taxing district for
6 notification of taxpayers as required by this section.

7 However, the requirements of subdivisions (3) and (4) shall be waived if:

8 (A) The opt out is for less than fifteen thousand dollars; or

9 (B) A copy of the resolution for opt out is mailed to every property taxpayer in the local
10 governmental unit, by first class mail or bulk mail, within twenty days of the decision
11 to opt out; and

12 (C) A copy of the resolution for opt out is printed in each official newspaper in the local
13 governmental unit's boundaries.

14 For the purposes of subsections (A), (B), and (C), the first publication is not deemed to have
15 occurred until three days after the mailing is sent or the resolution is delivered to the official
16 newspaper.

17 The opt out decision may be referred to a vote of the people upon a petition signed by at
18 least five percent of the registered voters in the taxing district and filed with the respective
19 governing body within twenty days of the first publication of the decision. The referendum
20 election shall be held on or before October first preceding the year the taxes are payable. If the
21 opt out is for the purpose of increasing the secondary road levy pursuant to § 31-12-27, only the
22 registered voters within the area of the county not included in any municipality, organized civil
23 township, or county road district organized pursuant to chapter 31-12 may petition or vote on
24 the referred decision. If the decision of a governing body to impose an excess tax levy is referred

1 and the excess tax levy is not approved by the voters, such governing body may not attempt to
2 impose an excess tax levy for eighteen months after the date of the referendum election. The
3 taxing districts may not exceed the levy limits provided in chapter 10-12 except for the
4 provisions in § 10-12-36.